



# Arkansas

## State Revenue Tax Quarterly

Mike Huckabee, Governor

Department of Finance & Administration Revenue Division

Richard A. Weiss, Director  
Tim Leathers, Commissioner

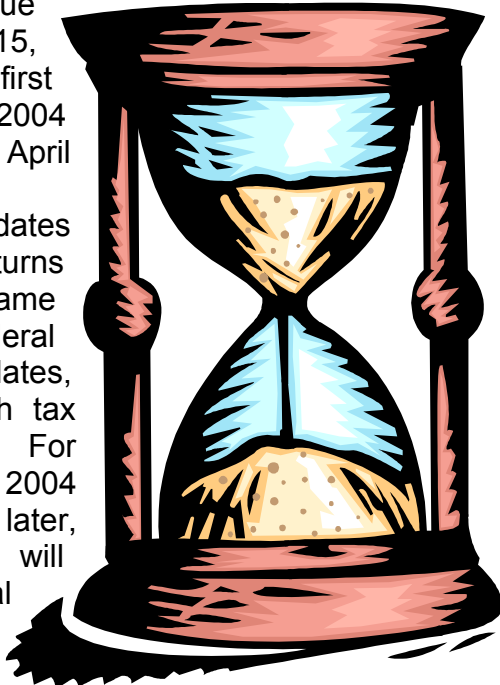
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## Changes to Corporate Income Tax Dates

Tax returns for calendar year corporations will be due March 15, 2004. The first estimate for 2004 will be due April 15, 2004.

The due dates on state returns will be the same as the federal due dates, effective with tax year 2003. For tax years 2004 and later, taxpayers will use federal due dates for estimated tax payments.



## RULE 2003 - 1

### Implementing Act 46 of 2003 (1<sup>st</sup> Ex. Sess.) Eighty-Fourth Session Projects Account within the General Improvement Fund

This rule has been promulgated and is now filed with the Secretary of State's office.

This rule is to simplify and clarify the administration of the disbursements of the 84<sup>th</sup> Session Projects account, to provide for increased public confidence in the disbursement of funds used for the 84<sup>th</sup> Session Projects Account, to ensure the fair and equitable treatment of all fund recipients, and to provide safeguards for the maintenance and administration of the disbursement process.

Copies of the rules/regulations can be requested from the Taxpayer Assistance Office by phone at (501) 682-7751 or by email to [Jan.Moore@rev.state.ar.us](mailto:Jan.Moore@rev.state.ar.us).

# RULE 2003-4

## Treatment of Employee Contributions to Employment-related Retirement Plans

This rule has been through the promulgation process and is now filed with the Secretary of State's office.

On August 29, 2003, the Department of Finance and Administration issued an emergency rule. This was followed by the permanent rule in September. The public hearing was held on October 7, 2003. The Administration Rules and Regulations Committee met on this rule in November, 2003.

The Arkansas Supreme Court recently issued its decision in the case of Weiss v. McFadden. This decision invalidated an Arkansas law denying a deduction for the cost of contributions made by a taxpayer to their retirement account. As a result of this decision, Arkansas taxpayers will be allowed to claim a cost of contributions deduction for tax years 2003 and following. There is currently no provision in Arkansas law outlining the proper method for a taxpayer to claim this cost of contributions deduction. This rule provides that the cost of contributions deduction should be claimed for state income tax purposes in the same manner as the cost of contributions deduction is claimed for federal income tax purposes. Recovery of cost for 2003 and later is in addition to the \$6,000 exemption.

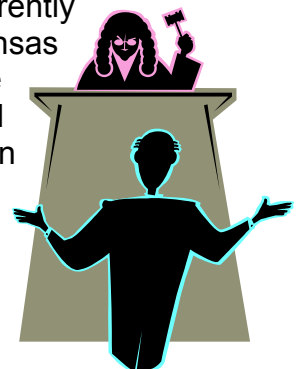
Copies of the rule can be requested from the Taxpayer Assistance Office by phone at (501) 682-7751 or by email to [Jan.Moore@rev.state.ar.us](mailto:Jan.Moore@rev.state.ar.us).

On June 26, 2003, the Arkansas Supreme Court issued an important decision concerning Arkansas individual income tax law in Weiss v. McFadden. The Supreme Court affirmed a ruling by the Pulaski County Circuit Court that struck down a portion of Ark. Code Ann. §26-51-307, which deals with the state taxation of retirement benefits, as being in violation of Amendment 47 of the Arkansas Constitution. Amendment 47 states that the State may not levy an ad valorem tax, which is a tax based upon the value of property. Ark. Code Ann. §26-51-307 allows a \$6,000 exemption for benefits received through an IRA or from employer sponsored retirement plans or programs.

The subsection that was struck down by the Supreme Court states that no recipient of such benefits shall be allowed to deduct or recover his cost of contribution in the IRA or retirement plan. The Supreme Court ruled that since recipients of such benefits had already paid Arkansas state income tax on the amount they had contributed to the IRA or retirement plan, the State may not tax this amount when it is received by the recipients as a retirement benefit. The Supreme Court stated that the return of such contribution constituted property of the recipient and that the disallowance of the cost of contribution constituted an unconstitutional ad valorem tax on these benefits.

The trial court initially ordered that the Department be enjoined from enforcing the provisions of this subsection and, after the Supreme Court decision, the trial court ordered refunds.

The time period allowed and the amount of the refunds are issues currently under appeal to the Arkansas Supreme Court, and the Supreme Court has stayed the trial court's decision until the appeal is decided.



## RULE 2003-3



### **Tax Credit Registration and Claim Verification System**

This rule has been through the promulgation process and is now filed with the Secretary of State's office.

Pursuant to the provisions of the Venture Capital Investment Act of 2001, Ark. Code Ann. §§ 15-5-1401 *et seq.* (the "Act"), specifically § 15-5-1407, these rules are to establish a registration and verification system to assure that tax credits claimed pursuant to the Act are valid and properly taken.

The rules: provide a registration system; specify how claims are to be made; provide definitions; detail how the credits affect estimated income tax payments; specify how refunds are calculated; provide a method for transfers, replacements, and voluntary cancellation; assure taxpayers of the manner in which the tax credits will be handled; and provide a table of examples.

Copies of the rule can be requested from the Taxpayer Assistance Office by phone at (501) 682-7751 or by email to [Jan.Moore@rev.state.ar.us](mailto:Jan.Moore@rev.state.ar.us)

### **Sales Tax transfers on Purchase of a business.**

Ark. Code Ann. §26-52-207(a)(3) provides that unpaid sales tax "shall be deemed to be due at the time of the sale of the fixtures and equipment incident to the business and shall constitute a lien against the stock and the fixtures and equipment in the hands of the purchaser thereof or any other third party until the tax is paid."



If you are considering purchasing the fixtures, equipment, or stock of a business, you can get a tax clearance or certificate of tax standing by completing the form, Authorization for Release of Tax Information, Form ET007 by calling 501-682-7200 or downloading the form from our web page, in Adobe Acrobat at, <http://www.state.ar.us/dfa/taxes/et007.pdf>. There is no fee for issuance of the tax clearance or certificate of tax standing.

# Arkansas Participating in TREASURY OFFSET PROGRAM

Beginning in 2003, Federal Individual Income tax refunds may be re-directed and sent to the Department of Finance and Administration to pay for taxes due to the State of Arkansas.

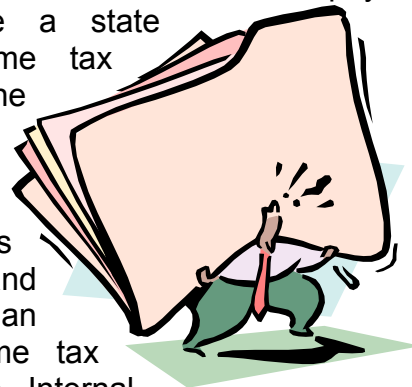
Debts that qualify for the Treasury Offset Program are state income tax obligations, as determined under state law resulting from an assessment that has become final in accordance with State law, has not been collected, and has not been delinquent for more than 10 years.

In 2003, DFA submitted a list of 9,750 delinquent taxpayers for the Treasury Offset Program with the Internal Revenue Service. \$115,172 has been collected from 326 taxpayers since that time. In November 2003, DFA sent 958 contact letters to additional delinquent taxpayers. They have 60 days to respond. Taxpayers are given the opportunity to dispute the amount or validity of the debt and to request a hearing. If there is no response, these taxpayers are added to the list.

**Refunds due taxpayers from their 2003 Federal income tax return will be sent to the Department of Finance and Administration for any individual whose name remains on the list.**

## Individual Income Tax NON FILERS

Notices have been mailed to taxpayers that didn't file a state individual income tax return with the Department of Finance and Administration for the years 1997 to 2001, and they filed an individual income tax return with the Internal Revenue Service for those years.



The notices are being mailed out in three groups of 11,000 each. Taxpayers should respond to these notices. If no response is received to contest the validity of the federal filing requiring an Arkansas income tax return, the state will make an assessment based on federal AGI and filing status. Taxpayers should call the non-filer assistance group at 682-1100 for assistance or questions. If there is no response, DFA will send an assessment notice in January 2004. The calculated tax is based on the Federal adjusted gross income and on the number of dependents shown on the Federal return. No withholding for state wages is entered into the calculations.

### CHANGES IN SALES & USE TAX

Please Call (501) 682-7104 For Periodic Updates  
Regarding Local Sales and Use Taxes  
[www.accessarkansas.org/salestax](http://www.accessarkansas.org/salestax)

Name	Code	Effective Date	%	Recent Action
Ashley County	02-00	11/01	1.75	Increased from 1%
Cleburne County	12-00	10/01	1.75	Increased from 1%
Jefferson County	35-00	10/01	1.5	Increased from 1%
Madison Count	44-00	10/01	2.0	Increased from 1%
Alexander	60-02	10/01	1.0	Enacted
Gravette	04-07	10/01	2.0	Increased from 1.75%
Clarksville	36-01	10/01	1.0	Enacted
Bentonville	04-03	10/01	2.0	Increased from 1%
McCrory	74-04	10/01	1.0	Enacted
Springdale	72-10	10/01	2.0	Increased from 1%

## Calendar of Due Dates

### October 15

Employee monthly withholding tax  
(EFT filers due previous day)

### October 20

Sales and Use tax

### November 15

Employee monthly withholding tax  
(EFT filers due previous day)

### November 20

Sales and Use tax

### December 15

Employee monthly withholding tax  
(EFT filers due previous day)

### December 22

Sales and Use tax

### Internet Information

Business and Personal Tax Page

<http://www.accessarkansas.org/dfa/taxes/index.html>

### Telephone Information

Corporate Income Tax (501) 682-4775

Taxpayer Assistance for (501) 682-1100  
Individual Income Tax 1-800-882-9275

Automated Refund Inquiry (501) 682-0200  
& Tele-tax Information 1-800-438-1992

### IRS (Internal Revenue Service)

<http://www.irs.gov> 1-(800) 829-1040

**The Arkansas State Revenue Tax Quarterly** is a publication of the Taxpayer Assistance Office. The newsletter is produced and distributed electronically to tax professionals, businesses, and organizations operating in Arkansas. To be added to or deleted from the email list, contact Jan Moore, phone (501) 682-7751, send an email to [jan.moore@rev.state.ar.us](mailto:jan.moore@rev.state.ar.us), or write to P. O. Box 1272, Ragland Building, Room 2077, Little Rock, Arkansas 72203-1272.